

THE VILLAGE OF PECOS,)	AGBCA No. 2000-177-1
)	
Appellant)	
)	
Representing the Appellant:)	
)	
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)	
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DECISION OF THE BOARD OF CONTRACT APPEALS

March 26, 2001

Before HOURY, POLLACK, and VERGILIO, Administrative Judges.

Opinion for the Board by Administrative Judge VERGILIO.

By letter dated September 12, 2000, the Village of Pecos, New Mexico, submitted this appeal to the Board concerning a contracting officer decision denying its claim. With an effective date of May 30, 2000, the Village of Pecos and U. S. Department of Agriculture, Forest Service, had entered into a contract for the rental of temporary, emergency facilities. During the Viveash fire, the contractor agreed to furnish facilities to the Santa Fe National Forest under which, for a fixed price per load, the Government could obtain potable water, dump gray water and sewage, and obtain treated water from a specific pond.

The contractor is seeking to recover \$22,500 plus installation costs for five aerators. The contractor seeks to recover under the Loss, Damage, or Destruction clause of the contract.¹ The contractor maintains that it was required to replace aerators because of other than normal wear and tear caused by the Government's dumping of gray water into its sewage treatment facility. The contracting officer denied the claim for reimbursement. The contractor appealed the denial.

The Board has jurisdiction over this timely-filed appeal pursuant to the Contract Disputes Act of 1978 (CDA), 41 U.S.C. §§ 601-613, as amended. The Board held an initial telephone conference with the parties. Thereafter, the Government filed and served an appeal file, and the parties engaged in settlement discussion in lieu of formal proceedings.

On March 23, 2001, the Board received notice that the parties have resolved the dispute; the Government has paid the contractor \$2,000 in full settlement of all claims under the contract. The contractor specifies that the matter may be dismissed.

DECISION

The parties have resolved the dispute. The appeal is dismissed with prejudice.

JOSEPH A. VERGILIO
Administrative Judge

We concur:

EDWARD HOURY
Administrative Judge

HOWARD A. POLLACK
Administrative Judge

Issued at Washington, D.C.
March 26, 2001

¹ The clause specifies: "The Government will assume liability for the loss, damage, or destruction of facilities furnished under this Agreement, provided that no reimbursement will be made for loss, damage, or destruction when due to (1) ordinary wear and tear, or (2) the fault or negligence of the owner or the owner's agent(s). The Government shall restore the owner's facilities to their condition immediately prior to Government occupancy; restoration shall be performed to the extent reasonably practical. Claims for reasonable costs incurred by the owner in restoring facilities to their prior condition shall be submitted to the Contracting Officer."